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PTO/SB/01 (10-00)
 Approved for use through 10/31/2002. OMB 0651-0032
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) <input type="checkbox"/> Declaration Submitted with Initial Filing OR <input type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)	Attorney Docket Number	SD 98-024
	First Named Inventor	Tony Yaksh
	COMPLETE IF KNOWN	
	Application Number	09 / 765,063
	Filing Date	1/17/01
	Group Art Unit	
	Examiner Name	

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Apparatus and Method for Detecting Finch Response to Nociceptive Agent

(Title of the invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) **1/17/01**

as United States Application Number or PCT Application Number

Application Number **09/765,063**

and was amended on (MM/DD/YYYY) _____

(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 21 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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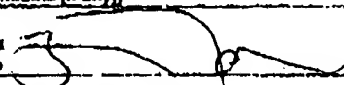
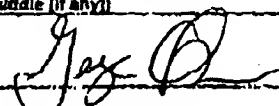
P.2

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DECLARATION — Utility or Design Patent Application

Direct all correspondence to: <input type="checkbox"/> Customer Number or Bar Code Label		OR <input checked="" type="checkbox"/> Correspondence address below	
Name William C. Fuess			
Address Fuess & Davidenas			
Address 17258 Amarillo Road			
City Ramona	State CA	ZIP 92065	
Country USA	Telephone 760 788-7401	Fax 760 788-5846	
<p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p>			
NAME OF SOLE OR FIRST INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any)) Tony		Family Name or Surname Yaksh	
Inventor's Signature 		Date 6-20-03	
Residence: City San Diego	State CA	Country USA	Citizenship
Mailing Address			
Mailing Address			
City	State	ZIP	Country
NAME OF SECOND INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any)) George		Family Name or Surname Ozaki	
Inventor's Signature 		Date 6/27/03	
Residence: City San Diego	State CA	Country USA	Citizenship
Mailing Address			
Mailing Address			
City	State	ZIP	Country
<input type="checkbox"/> Additional inventors are being named on the supplemental Additional Inventor(s) sheet(s) PTO/5B/02A attached hereto.			

Attorney Docket No.1133.029US1

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

United States Patent Application
COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **APPARATUS AND METHOD FOR DETECTING FLINCH RESPONSE TO NOCICEPTIVE AGENTS.**

The specification of which was filed on January 17, 2001 as application serial no. 09/765063.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. § 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

No such claim for priority is being made at this time.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Attorney Docket No.: 1133.029US1
 Serial No. 09/765063
 Filing Date: January 17, 2001

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Anglin, J. M.	Reg. No. 24,916	Jackson Huebsch, Katharine A.	Reg. No. 47,670	Nielsen, Walter W.	Reg. No. 25,539
Arora, Suneel	Reg. No. 42,267	Jurkovich, Patti J.	Reg. No. 44,813	Padys, Danny J.	Reg. No. 35,635
Beckman, Marvin L.	Reg. No. 38,377	Kalis, Janai M.	Reg. No. 37,650	Parker, J. K.	Reg. No. 33,024
Bianchi, Timothy E.	Reg. No. 39,610	Klima-Silberg, Catherine I.	Reg. No. 40,052	Peacock, Gregg A.	Reg. No. 45,001
Billion, Richard E.	Reg. No. 32,836	Kluth, Daniel J.	Reg. No. 32,146	Perdok, Monique M.	Reg. No. 42,989
Black, David W.	Reg. No. 42,331	Lacy, Rodney L.	Reg. No. 41,136	Peret, Andrew R.	Reg. No. 41,246
Brennan, Thomas F.	Reg. No. 35,075	Lemaire, Charles A.	Reg. No. 36,198	Peterson, David C.	Reg. No. 47,857
Chadwick, Robin A.	Reg. No. 36,477	Lundberg, Steven W.	Reg. No. 30,568	Prout, William F.	Reg. No. 33,995
Clark, Barbara J.	Reg. No. 38,107	Lundborg, Steven W.	Reg. No. 30,568	Puckett, Craig L.	Reg. No. 43,023
Clise, Timothy B.	Reg. No. 40,957	Maki, Peter C.	Reg. No. 42,832	Schumm, Sherry W.	Reg. No. 39,422
Cochran, David R.	Reg. No. 46,632	Malen, Peter	Reg. No. 44,894	Schwegman, Michal L.	Reg. No. 25,816
Dahl, John M.	Reg. No. 44,639	Malen, Peter L.	Reg. No. 44,894	Speier, Gary J.	Reg. No. 45,458
DeLizio, Andrew	Reg. No. 52,806	Mates, Robert E.	Reg. No. 35,271	Staffey, Charles E.	Reg. No. 25,179
Drake, Eduardo E.	Reg. No. 40,594	McCrackin, Ann M.	Reg. No. 42,858	Stordal, Leif T.	Reg. No. 46,251
Embretson, Janet E.	Reg. No. 39,665	McTavish, Hugh E.	Reg. No. 48,341	Tong, Viet V.	Reg. No. 45,416
Forrest, Bradley A.	Reg. No. 30,837	Mehrle, Joseph P.	Reg. No. 45,535	Vikamins, Ann S.	Reg. No. 37,748
Gorrie, Gregory J.	Reg. No. 36,530	Muller, Mark V.	Reg. No. 37,509	Woessner, Warren D.	Reg. No. 30,440
Graves, John N.	Reg. No. 40,362	Narna, Prakash	Reg. No. 44,255		
Harris, Robert J.	Reg. No. 37,346	Nelson, A. James	Reg. No. 28,650		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:

P.O. Box 2938, Minneapolis, MN 55402

Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1: **Tony Yaksh**
 Citizenship: **United States of America**
 Post Office Address: **4219 St. James Place**
San Diego, CA 92103

Residence: **San Diego, CA**

Signature: _____

Tony Yaksh

Date: _____

8-6-03

☒ Additional inventors are being named on separately numbered sheets, attached hereto.

Attorney Docket No.: 1133.029US1
Serial No. 09/765063
Filing Date: January 17, 2001

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Full Name of joint inventor number 2: George Ozaki
Citizenship: United States of America
Post Office Address: 3695 Mt. Arjan Drive
San Diego, CA 92111

Residence: San Diego, CA

Signature: _____

George Ozaki

Date: _____

8/8/03

Attorney Docket No.: 1132.029US1
Serial No. 09/765063
Filing Date: January 17, 2001

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§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.